



## **Environmental Planning Commission**

**Agenda Number: 3**  
**Project Number: 1008098**  
**Case Number: 09EPC-40070**  
**March 11, 2010**

### **Supplemental Staff Report**

|                          |  |
|--------------------------|--|
| <b>Agent</b>             | City of Albuquerque Planning Department  |
| <b>Applicant</b>         | City of Albuquerque City Council   |
| <b>Request</b>           | <b>Text Amendments to the Downtown 2010 Sector Development Plan &amp; an associated Amendment to Zoning Code §14-16-1-5(B), Definitions.</b> |
| <b>Legal Description</b> | Text amendments to define Commercial Surface Parking Lot and to establish requirements for lighting, landscaping, paving and buffering       |
| <b>Location</b>          | South of Marble/Slate/Lomas Blvd., North of Coal Ave., East of the Railroad tracks/Broadway Blvd., and West of Tenth/Ninth/Seventh Streets.  |
| <b>Size</b>              | Approximately 321 acres (0.5 sq.miles)   |
| <b>Zoning</b>            | SU-3 Special Center Zone   |

#### **Staff Recommendation**

***That a recommendation of APPROVAL of 09EPC-40070, be forwarded to the City Council based on the Findings beginning on Page 14, and subject to the Conditions of Recommendation beginning on Page 17.***

***Staff Planner***

***Catalina Lehner, AICP-Senior Planner***

#### **Summary of Analysis**

This request is for text amendments to the Downtown 2010 Sector Development Plan (DTSDP) to define Commercial Surface Parking Lot (CSPL) and to establish lighting, landscaping, paving and buffering requirements. An amendment to Zoning Code §14-16-1-5(B) is proposed to incorporate the definition into the Zoning Code.

New CSPLs would continue to be prohibited. Existing CSPLs are non-conforming uses, with 3 years to comply with the lighting, landscaping and paving requirements and 1 year to comply with the buffering requirement.

Notification was mailed to neighborhoods, placed in the Neighborhood News and on the City's website. CSPL owners were notified during the deferral period. Staff has received a letter of support and a letter of opposition as of this writing.

Staff recommends that a recommendation of approval, with the suggested conditions, be forwarded to the City Council.

This report should be read in conjunction with the original February 18, 2010 Staff report.

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At its February 18, 2010 hearing, the Environmental Planning Commission (EPC) voted to defer this request to its next regularly scheduled hearing on March 11, 2010 (see attachment). The request was not discussed. The deferral was needed to allow additional time for Staff to notify owners of Commercial Surface Parking Lots (CSPLs) in the Downtown Core Area (see Section IV of this report).

## ***I. INTRODUCTION***

### ***Request***

This request is for text amendments to the Downtown 2010 Sector Development Plan (DTSDP), which are contained in Council Bill No. R-09-5 (see attachment). The proposed text amendments would define Commercial Surface Parking Lot (CSPL) and establish requirements for lighting, landscaping, paving and buffering for existing CSPLs. Currently there are 23 CSPLs in the Downtown Core Area (see attachment).

*Definition-* Commercial Surface Parking Lot (CSPL) is proposed to be defined as “an area of land used for the provision of parking for a fee. The term does not include a commercial parking garage which is a building whose primary use is the provision of parking for a fee” (see attachment, Section 1.A.1). Parking lots associated with particular uses, such as bank or hotel, are not intended to be labeled as CSPLs (see History section of the February Staff report).

In the February Staff report, Staff suggested that the definition of CSPL be included in the Definitions section of the Zoning Code, 14-16-1-5(B). In response, Council Bill No. O-10-1 was drafted (see attachment) and was introduced at the City Council meeting on March 1, 2010.

After conducting research (see attachments), Staff believes that the proposed definition of CSPL warrants further clarification. Language is needed to indicate that such parking lots are commercial enterprises which rent parking to the general public, in contrast to serving tenants or customers of a given use such as an office building. Staff’s recommended revisions to the definition apply to both R-09-5 and O-10-1 (See Section V of this report).

*Requirements-* The proposed requirements are:

Lighting (Section 1B): illuminated with a minimum one-half foot-candle of light during hours of darkness. Light poles shall not exceed 20 feet.

Landscaping (Section 1C): at least 15% of the ground area, a minimum 6 foot strip along street right-of-way, street trees counted as ground coverage.

Paving (Section 1D): paved with a minimum 2 inches of asphalt or concrete.

Buffering (Section 1E): solid fence or wall (4 foot minimum) adjacent to residentially zoned property.

New Commercial Surface Parking Lots (CSPLs) will continue to be prohibited. CSPLs that existed prior to DTSDP adoption will be allowed to continue as non-conforming uses. However, non-conforming

CSPLs must comply with the proposed requirements within three (3) years of the effective date of the proposed text amendments for the lighting, landscaping and paving requirements, and within one (1) year for the buffering requirement.

***Context***

⇒ Please refer to p. 1 of the original February 18, 2010 Staff report (see attachment).

***Environmental Planning Commission (EPC) Role (repeated from the February Staff report)***

The EPC's task is to make a recommendation to the City Council regarding the proposed changes to the Downtown 2010 Sector Development Plan (DTSDP). The City Council is the City's Zoning Authority and will make the final decision. The EPC is a recommending body with review authority. In this case, Pursuant to §14-16-2-24 (SU-3 Special Center Zone), the EPC is required to make a recommendation regarding a sector development plan, such as the DTSDP, which tailors development to an urban center.

***II. OVERVIEW***

***Intent***

⇒ Please refer to p. 2 of the original February 18, 2010 Staff report (see attachment).

***History***

⇒ Please refer to the original February Staff report, beginning on p. 2 (see attachment), and to the following update:

The effort to bring Commercial Surface Parking Lots (CSPLs) into compliance with the requirements of the Downtown 2010 Sector Development Plan (DTSDP) has been underway for about a year and a half. Beginning in October 2008, Code Enforcement Staff started gathering information on CSPLs and invited CSPL owners to a training session about DTSDP requirements held on November 12, 2008. Some CSPL owners worked with Code Enforcement and were Brought Into Compliance (BIC).

For CSPLs that continued to be non-compliant after several further inspections, Notices of Violation (NOVs) were sent in the Spring and Summer of 2009. CSPL owners were given two weeks to contact Code Enforcement to work out compliance arrangements. The owners who chose not to make contact and not comply had a criminal complaint filed against them in the Metropolitan Court.

In a particular Metropolitan Court case regarding a non-compliant CSPL, the Court found (August 2009) that the DTSDP is ambiguous and not clearly defined in its terms for compliance. This result prompted the City to draft the proposed text amendments to the DTSDP.

***III. ANALYSIS OF APPLICABLE ORDINANCES, PLANS AND POLICIES***

Applicable for policy analysis are the City Charter, the Zoning Code, the Comprehensive Plan, and the Downtown 2010 Sector Development Plan (DTSDP).

⇒ Please refer to the original February Staff report, beginning on p. 3 (see attachment).

#### ***IV. ISSUES***

The Issues section of the February Staff report discusses the potential enforcement implications of the proposed text amendments, focusing on lighting and compliance timeframes. Discussed here are developments that have occurred since then.

##### ***A) Lighting-***

⇒ Please also refer to p. 7-8 of the original February Staff report (see attachment).

In the original Staff report, Staff suggested using the term “foot-lamberts” because Code Enforcement’s equipment measures in foot-lamberts. However, after additional research, Staff suggested that: i) the term “foot-candles” be used as proposed, and ii) a new light measuring device be acquired. Here’s the reasoning: “Foot-lamberts” is considered an antiquated term. Also, the current equipment, which uses foot-lamberts, measures light at its source. Equipment that measures lighting levels over a given area, such as a parking lot, is needed for the proposed lighting requirements to be enforceable. Staff has found a couple of light meters in the \$500 price range that would fit the bill and be affordable.

##### ***B) Compliance Timeframes-***

⇒ Please also refer to p. 8 of the original February Staff report (see attachment).

Staff thought that the different compliance timeframes could potentially complicate enforcement efforts. As proposed, lighting, landscaping and paving requirements must be complied with within three (3) years of the proposed legislation’s effective date. The buffering requirement, which appears to be the least onerous, must be complied with within one (1) year of the effective date.

Code Enforcement Staff, however, indicated that the proposed timeframes would not be problematic and that they do not see a need for uniform timeframes (ex. all 2 years). Non-compliance with the buffering requirement (1 year timeframe) would start enforcement action against a non-compliant CSPL, since the one year timeframe will occur before the 3 year timeframes for the other requirements (lighting, landscaping and paving).

##### ***C) Non-Conforming Status-***

The non-conforming status of CSPLs is another matter. Upon adoption of the DTSDP in May 2000, which prohibited CSPLs, existing CSPLs became non-conforming uses. The Zoning Code defines Nonconforming as: “A structure or use of structure or land which does not conform to this article and which was in conformity with any zoning ordinance in effect at the time it was created.”

CSPLs in the Downtown Core Area prior to May 2000 are non-conforming uses and are allowed to remain. However, pursuant to §14-16-3-4(B)(4), Nonconformance Regulations, land used for a non-conforming use cannot become and remain vacant for a continuous period of 6 months or more without losing its non-conforming status. After that, the land could only be used in conformity with the regulations of the zone it is in. CSPLs, like other non-conforming uses, are subject to these removal

provisions. If not, contrary to the intent of the DTSDP, new CSPLs would develop and they would not have to conform to the regulations which govern them.

#### **V. ANALYSIS- SUGGESTED REVISIONS & DISCUSSION**

New suggested language is [+underlined and bracketed+]. Deleted language is [~~underlined, bracketed and struck through~~]. Planning Staff's analysis follows in ***Bold Italics***.

Page references are to the proposed Bills (see attachments). Note that the revisions have been numbered to correspond to the proposed conditions of recommendation. *Note: The only proposed condition that applies to both R-09-5 and O-10-1 is 1.C.*

#### **SUBSTANTIVE REVISIONS-**

##### **1. Definitions-**

A. Page 1, beginning on Line 4 ~~Insert reference to the Definitions section of the Zoning Code, to be amended:~~

~~[+; AMENDING SECTION 14-16-1-5(B) ROA 1994 OF THE ZONING CODE TO INCLUDE THE DEFINITION OF COMMERCIAL SURFACE PARKING LOT+]~~

***The Definitions section of the Zoning Code, 14-16-1-5(B), needs to be amended to include the definition of "commercial surface parking lot" (CSPL). This would allow the new definition to be readily located and would link the Downtown 2010 Sector Development Plan (DTSDP) to the Zoning Code.***

***In response to proposed condition 1.A., the suggested Zoning Code amendment to include the definition of a CSPL, Council Bill No. O-10-1 was drafted (see attachment) and was introduced at the City Council meeting on March 1, 2010. Therefore, Condition 1.A. is no longer needed.***

A. Page 1, Line 8:

WHEREAS, the City Council has the authority both to adopt and to amend a sector [+development+] plan; and [+to amend the Zoning Code.+]

***Adding this phrase is consistent with adding the definition of CSPL (see above), which the City Council has the authority to do. Adding the word "development" creates consistency with the term "Downtown 2010 Sector Development Plan", as used in the text of the legislation.***

B. Page 3, Lines 10-11:

[+UNLESS OTHERWISE DEFINED IN THE PLAN, THE DEFINITIONS SECTION OF THE ZONING CODE, 14-16-1-5(B), SHALL APPLY+]

***The reason for this language is to make it obvious that the definitions in the Zoning Code apply to the DTSDP Core Area. This reference will remedy the disconnect the Court found between***

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*the sector development plan and the Zoning Code, and is one way to help address the Court's concern that the DTSDP is ambiguous and not clearly defined (the other way is by further defining the regulations, which the proposed text amendments also do).*

C. Page 3, Lines 13-16 (applies to both R-09-5 and O-10-1):

A “commercial surface parking lot” ~~means~~ [+is+] an area of land used ~~[for the provision of]~~ [+to provide+] parking [+for motor vehicles, as a commercial enterprise, +] for a fee [+to the general public. Such a parking lot is not associated with any other use.+] The term does not include a commercial parking garage which is a building ~~[whose primary use is]~~ [+primarily used for+] the provision of parking for a fee.

*Staff revisited the proposed definition. It needs to be clear that the parking lots in question are commercial enterprises themselves, and that they charge a fee and are available to the general public, in contrast to parking lots for tenants and/or patrons of a given use such as a bank or a hotel.*

2. *Prohibition & Compliance-*

A. Page 3, Line 17:

2. [+New+] Commercial Surface Parking Lots are not allowed within the area covered by the Downtown 2010 Sector Development Plan.

*Adding the word “new” clarifies that any new CSPLs would not be allowed, and reinforces the idea that existing CSPLs would be allowed to remain.*

B. Page 3, Lines 19-23:

3. Commercial Surface Parking Lots that legally existed prior to the adoption of ~~[this amendment to]~~ the Downtown 2010 Sector Development Plan [+in May 2000+] shall [+continue to+] be ~~[legal]~~ non-conforming uses and must meet the landscaping, lighting, buffering and paving requirements as defined herein and within the time frames herein specified.

*The DTSDP prohibited CSPLs upon its adoption in May 2000. The suggested revisions would clarify that CSPLs were prohibited prior to the effective date of the proposed text amendments, and that CSPLs will continue to be prohibited upon adoption of the proposed text amendments.*

C. Page 3, new lines 24-26:

[+4. Such Commercial Surface Parking Lots shall also comply with certain requirements of the O-1 zone regarding parking lot paving [(A)(12)(a)], barriers [(A)(12)(b)], and ingress and egress [(A)(12)(e)].]

*Code Enforcement Staff commented that the proposed legislation should reference the parking lot requirements found in the O-1 zone (§14-16-2-15(A)(12). Because such a reference would*

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*create internal conflicts in the proposed legislation, Staff proposes referencing only the non-conflicting provisions of the O-1 zone.*

3. *Effective Date-*

Page 6, new Lines 9-10:

[+SECTION 3. This ordinance shall take effect five days after publication by title and general summary+].

*Staff proposes adding this language for clarification. Having a definite date when the ordinance is effective would help clarify timeframes and would be helpful to Code Enforcement Staff.*

4. *Lighting-*

A. Page 3, beginning on Line 29:

2. Adequate lighting requires that ~~[the parking facilities]~~ [+commercial surface parking lots+] shall be illuminated with a minimum maintained one half (0.5) foot-candle of light at ground level during the hours of darkness, maximum to minimum uniformity ratio lighting in parking areas shall be 15:1. (This means that when the minimum is at 0.5 foot-candle of light, the maximum foot-candle level shall not be higher than 7.5 foot-candles.)

[+3.+] Landscaping shall not be planted so as to obscure required light levels. *{see also proposed condition #9A}.*

*The term “commercial surface parking lot” is more appropriate than “parking facility”, which is undefined and can imply other types of parking (ex. garages) .*

*Code Enforcement Staff commented that their equipment measures luminance in foot-lamberts, not foot-candles. A simple solution would be to change the term used in the proposed legislation. However, after additional research, Staff does not believe this is the best course of action.*

*The term “foot-candles” should be used since “foot-lamberts” is an antiquated term. Also, because Code Enforcement’s equipment measures light sources and not illuminated areas, new equipment is needed to make the proposed legislation enforceable (regardless of what the measurement units are). Staff is aware of light meters in the \$500 price range that would fit the bill and be affordable (see attachments).*

*Staff favors obtaining the new equipment, which would produce a numerical result, as opposed to developing new standards that define “adequate lighting” in terms of site development plan specifics such as light pole spacing and fixturing.*

B. Page 4, new Lines 8-9:

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[+6. All commercial surface parking lots shall comply with the illumination requirements in Zoning Code 14-16-3-9, Area Lighting Regulations+].

*Code Enforcement Staff would like this reference added to ensure consistency with Zoning Code requirements.*

C. Page 4, existing Lines 8-10:

[3.] [+7.+] Adequate lighting at commercial surface parking lots shall be provided within three years of the effective date of this amendment to the Downtown 2010 Sector Development Plan. [+There shall be no extension of the three year compliance timeframe.+]

*As proposed, lighting, landscaping and paving requirements must be complied with within three (3) years of the proposed legislation's effective date. The buffering requirement, which appears to be the easiest to meet, must be complied with within one (1) year of the effective date.*

*Staff thought that the different compliance timeframes could potentially complicate enforcement efforts. Code Enforcement Staff, however, indicated that the proposed timeframes would not be problematic and that they do not see a need for uniform timeframes (ex. all 2 years).*

*Non-compliance with the buffering requirement (1 year timeframe) would start enforcement action against a non-compliant CSPL, since the one year timeframe will occur before the 3 year timeframes for the other requirements (lighting, landscaping and paving). There will not be an opportunity to meet the buffering requirement in three years with the rest of the requirements.*

5. *Landscaping-*

A. Page 4, Lines 20-24:

2. At least 15% of the ground area of [legal] non-conforming commercial surface parking lots (including driveways) shall be devoted to landscaping. Along the street right-of-way a minimum landscaped strip of six feet shall be maintained between parking areas and the street right-of-way line [+, with the following exception: if street trees are used to meet coverage requirements, the landscaping strip may be reduced to 3 feet.+]

*The above language would create an incentive for providing street trees while maintaining the impact of providing a landscape buffer.*

B. Page 4, Lines 26-29:

[+4+] To minimize water consumption, the use of vegetative ground cover other than turf grass is [encouraged] [+required+]. Landscaping that dies [+including street trees used to meet the coverage requirement, is the responsibility of the owner and+] shall be replaced within 60 days [of notification to the owner].



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*Turf grass generally consumes more water than “plants that are native or adaptable to the climactic conditions of the Albuquerque area” (see Definition of Landscaping, also p. 4, Lines 13-19 of the proposed text amendments). Planning Staff recommends a prohibition on turf grass, especially on blend-unspecified turf grass, in the interest of water conservation.*

*Staff also recommends clarification that street trees, used to count toward the landscape coverage requirement for CSPLs, need to be the responsibility of the CSPL owner.*

C. Page 4, beginning on Line 30:

[3-] [+5+] Compliance with the requirement for 15% landscaping coverage may be met, [~~in whole or~~] in part, by providing street trees adjoining a commercial surface parking lot. [~~if such trees are~~] [+The street trees must be placed+] in locations [~~and are tree species~~] consistent with the [~~provisions~~] [+standards+] of the Downtown 2010 Sector Development Plan. [+The tree species must be selected from the Approved List of Downtown Trees included in the Plan and must also comply with the Street Tree Ordinance.+] ]

*Staff's recommended changes would make it obvious that the proposed languages refer to Standard 4: Street Trees (p. 54) and the Approved List of Downtown Trees (between p. 70 and 71) in the DTSDP. All street trees should comply with the Street Tree Ordinance.*

D. Page 5, beginning on Line 1:

[+6.+] The ground area occupied by a street tree for purposes of coverage percentage shall be calculated by determining the mature spread of the street trees. Credit shall be given for ground area coverage of a street tree even if some or all of the mature spread of the street tree is not above the commercial surface parking lot. Street trees adjacent to a commercial surface parking lot [~~may~~] [+shall+] be planted in the ground [~~or in a moveable planter~~] [+in an area that is a minimum size of 36 square feet.+] ]

*This language should be its own subsection because it contains distinct ideas. The mandatory “shall” is clearer language than the “may”. The minimum size of a tree planting area needs to be specified and be consistent with the Zoning Code. Moveable planters are more suitable for ornamental trees but not for street trees, which would eventually grow too large (see Approved List of Downtown Trees in the DTSDP).*

E. Page 5, new Lines 8-10:

[+ 7. The following trees shall be added to the Approved List of Downtown Trees: Redbud, Crape Myrtle (cultivars over 15 ft. tall), Ash ‘Urbanite’, Malus ‘Thunderchild’, Malus ‘Prairiefire’, Box elder ‘Sensation’, Lacebark Elm.+] ]

*Staff consulted the City Forrester regarding the Approved List of Downtown Trees in the DTSDP (Plan, between p. 70 and p. 71). The Forrester suggested adding the tree species listed above.*

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F. Page 5, Lines 8-11:

[4.] [+8.] Compliance with the landscaping requirements for [legal] nonconforming commercial surface parking lots shall be provided within three years of the effective date of this amendment to the Downtown 2010 Sector Development Plan. [+There shall be no extension of the three year compliance timeframe.]

*Please refer to the explanation in #4C of this section of the Staff report.*

6. *Paving-*

A. Page 5, Lines 14-16:

1. [Legal] Non-conforming commercial surface parking lots shall be paved [+with a minimum of+] two inches of asphalt or concrete or a surface of equal or superior performance characteristics [+such as crusher fines+]. [+For drive pads the minimum thickness shall be 6 inches.+]

*Zoning Code 14-16-1-3(F)(1), Off-Street Parking Standards, requires that paving be “blacktop or equal”, at least 2 inches thick over 4 inches of subgrade. In consultation with Transportation Division Staff, Staff learned that 2 inches is a minimum thickness, and that often builders use 3 inches (or more) depending upon the situation and the desire to minimize future maintenance.*

*Hydrology Division Staff commented that thicker asphalt or concrete (or other surface material) is preferable to avoid future maintenance, and that drive pads should be specified as requiring thicker material. City Standard Drawing 2425 shows 6 inch thick drive pads, which is the norm.*

*Code Enforcement Staff commented that current paving standards allow crusher fines. Planning Staff points out that crusher fines would minimize particulates (“dust”) from unpaved lots while preserving permeability.*

B. Page 5, Lines 18-21:

3. Compliance with the paving requirements for [legal] nonconforming commercial surface parking lots shall be provided within three years of the effective date of this amendment to the Downtown 2010 Sector Development Plan. [+There shall be no extension of the three year compliance timeframe.]

*Please refer to the explanation in #4C of this section of the Staff report.*

7. *Buffering-*

A. Page 5, Lines 24-29:

1. Where a [legal] non-conforming commercial surface parking lot is adjacent to a residential zone there shall be a solid fence or wall at a minimum height of 48 inches high to buffer the residentially

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zoned property from the parking lot. This buffering shall be in addition to any required landscaping.  
[+Chain link fencing with slats shall not constitute acceptable screening.+]

***Staff recommends adding this language so the proposed legislation is consistent with Zoning Code §14-16-3-10(E)(4)(c).***

**B. Page 5, Lines 29-32:**

2. Compliance with the buffering requirements for [legal] nonconforming commercial surface parking lots shall be provided within one year of the effective date of this amendment to the Downtown 2010 Sector Development Plan. [+There shall be no extension of the one year compliance timeframe.+]

***Please refer to the explanation in #4C of this section of the Staff report.***

**RELATIVELY MINOR CORRECTIONS-**

**8. *Complete Citations-***

**A. Page 2, beginning on Line 9:**

WHEREAS, at page 55 of the Downtown 2010 Sector Development Plan it is provided that [+parking between a building and a side lot line+] ~~[along a side lot line parking]~~ must be screened from the street by a solid fence or wall at a minimum height of 48 inches ~~[; and]~~ [+(4 feet), except on Central Avenue between 1<sup>st</sup> Street and 8<sup>th</sup> Street, where surface parking must be located behind buildings.+]

***This suggested change creates consistency between the legislation and the wording of the Downtown 2010 Sector Development Plan, Standard 5: Surface Parking, on p. 55 of the Plan.***

**B. Page 2, beginning on Line 15:**

WHEREAS, the City's Zoning Code provides at section 14-16-3-4(B) that:

- (1) A legally nonconforming use of land ~~[...]~~ [+, except a legally nonconforming mobile home, +] shall be made to conform within ~~[...]~~ [+ : +]
- (b) One year after the activity becomes nonconforming...;

**C. Page 2, beginning on Line 21:**

WHEREAS, the City's Zoning Code provides at section 14-16-3-4(E) that:

Nonconforming Landscaping. Premises which, when they were developed, were not required to be developed according to a landscaping plan approved by the city shall be made to conform to such a plan within two years of the time they were required to so conform ~~[...]~~ [+due to amendment of the map or text of this Zoning Code.+]

***The remainder of the phrase is added so that it is consistent with the language in the Zoning Code.***

9. *Renumbering (where not otherwise mentioned herein)-*

A. Page 4, beginning on Line 3:

[+3.+] Landscaping shall not be planted so as to obscure required light levels.

[+4.+] Parking lot lights shall be designed and arranged in such a manner so that light is reflected away from adjoining residential properties and streets.

[+5.+] All light poles, standards and fixtures shall not exceed a height of twenty (20') feet above grade level.

*{for new #6, see recommended Condition 4B} {for new #7, see recommended Condition 4C}*

***It is easier to follow and track requirements when they are broken out into distinct sub-sections by topic.***

B. Page 4, beginning on Line 20:

2. At least 15% of the ground area of legal non-conforming commercial surface parking lots (including driveways) shall be devoted to landscaping. Along the street right-of-way a minimum landscaped strip of six feet shall be maintained between parking areas and the street right-of-way line.

[+3+] All required landscape areas shall be covered with live plants over at least 75% of the required landscape area. Coverage will be calculated from the mature spread of these live plants.

*{for new #4, see recommended Condition 5A}*

***It is easier to follow and track requirements when they are broken out into distinct sub-sections by topic.***

## **VI. COMMENTS**

### **CONCERNS OF REVIEWING AGENCIES/PRE-HEARING DISCUSSION**

⇒ For a discussion of reviewing agencies' concerns, please refer to p. 15 of the original February Staff report. Agency comments begin on p. 25 (see attachment).

### **NEIGHBORHOOD/OTHER CONCERNS (repeated from the February Staff report & updated)**

The proposed text amendments were announced in the Neighborhood News and posted on the Planning Department's web page. The Office of Neighborhood Coordination (ONC) notified the affected neighborhood representatives by mail pursuant to O-92, the Neighborhood Recognition Ordinance. Staff received one letter of support, from the Downtown Action Team (DAT), in the February timeframe (see attachment in the original February Staff report).

*Update-* This request was deferred so that Staff could notify owners of Commercial Surface Parking Lots (CSPLs) in the Downtown Core area. In coordination with the AGIS Division, notification was sent to owners of CSPLs and to property owners within 200 feet of the CSPLs (see attachments). Though a 100 ft. buffer is required for notice of zone changes, a 200 ft. buffer was used in this case to accommodate the

large right-of-way of some Downtown streets (such as Lomas Blvd.). For consistency, all CSPLs were buffered using 200 ft. (see attachment).

## ***VI. CONCLUSION***

This request is for text amendments to the Downtown 2010 Sector Development Plan (DTSDP) to define Commercial Surface Parking Lot (CSPL) and to establish requirements for lighting, landscaping, paving and buffering for existing CSPLs. The EPC's role is to make a recommendation to the City Council.

The proposed text amendments would support the Downtown 2010 Sector Development Plan (DTSDP) commitment to revitalization to make Downtown Albuquerque a "Park Once and Pedestrian First" place by providing a common definition of CSPLs and by improving the parking and walking experience in Downtown.

The Office of Neighborhood Coordination (ONC) notified the affected neighborhood representatives by mail. The proposed text amendments were announced in the Neighborhood News and on the Planning Department's web page. Owners of CSPLs were notified during the deferral period. Staff has received one letter of support and one letter of opposition as of this writing. Some affected property owners have inquired by phone.

Staff finds that the proposed text amendments generally further applicable Goals and policies. However, the suggested revisions and minor corrections in the conditions of approval will strengthen and clarify the proposed legislation. Staff recommends that an approval recommendation, with conditions, be forwarded to the City Council.

***RECOMMENDED FINDINGS- 09EPC-40070, March 11, 2010-Downtown 2010 Sector Development Plan Text Amendments & an associated Amendment to Zoning Code §14-16-1-5(B), Definitions.***

*Note: \* Asterisk and grey highlighting indicate differences from the original February Staff report.*

\* 1. This request is for a recommendation to the City Council regarding: A) R-09-5, which the City Council introduced in December 2009 and contains proposed text amendments to the Downtown 2010 Sector Development Plan (DTSDP), and B) O-10-1, which the City Council introduced in March 2010, and contains an associated, proposed amendment to the Zoning Code.

\* 2. The purpose of the proposed text amendments is to: A) define Commercial Surface Parking Lot (CSPL) as “an area of land used for the provision of parking for a fee. The term does not include a commercial parking garage which is a building whose primary use is the provision of parking for a fee”, and B) establish requirements for lighting, landscaping, paving and buffering for existing CSPLs located within the boundaries of the Downtown 2010 Sector Development Plan (DTSDP) Core area.

\* 3. O-10-1, which is associated with the proposed text amendments in R-09-5, contains a proposed amendment to Zoning Code 14-16-1-5(B), Definitions. The purpose of the proposed Zoning Code amendment is to include the definition of Commercial Surface Parking Lot (CSPL) in the Zoning Code.

\* 4. New Commercial Surface Parking Lots (CSPLs) will continue to be prohibited. Existing CSPLs will be allowed to continue as non-conforming uses but will be required to comply with the proposed requirements. Design requirements associated with this request apply only to properties located within the boundaries of the Downtown 2010 Sector Development Plan (DTSDP).

\* 5. The Albuquerque/Bernalillo County Comprehensive Plan, the Downtown 2010 Sector Development Plan (DTSDP), and the City of Albuquerque Zoning Code are incorporated herein by reference and made part of the record for all purposes.

6. The EPC’s task is to make a recommendation to the City Council regarding the proposed text amendments. The City Council is the City’s Zoning Authority and therefore will make the final decision. The EPC is a recommending body.

7. Intent of the City Charter:

Adding provisions to the ROA 1994 to define and regulate commercial surface parking lots (CSPLs) is an exercise in local self government (City Charter, Article 1). Requiring that existing CSPLs comply with regulations regarding lighting, landscaping, paving and buffering generally expresses the Council’s desire

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to ensure the proper use and development of land, and promote and maintain a humane urban environment (City Charter, Article IX).

8. Intent of the Zoning Code (Section 14-16-1-3):

The proposed text amendments generally further the intent of the Zoning Code to promote the health, safety and general welfare of the public. The proposed requirements would improve the parking and walking experience in Downtown in support of applicable Comprehensive Plan and DTSDP Goals.

\* 9. The proposed text amendments generally further the Central Urban Goal of the Comprehensive Plan. The proposed requirements would help promote the Central Urban area by enhancing the City's historic center by improving existing commercial service parking lots (CSPLs) and their environs. Increased parking lot usage, more attractive streetscapes, and walking would benefit arts, cultural and public activities in the Downtown area. The continued prohibition of new CSPLs recognizes and supports the residential character of the surrounding neighborhoods.

\* 10. The request generally furthers the Developing and Established Urban Area Goal of the Comprehensive Plan. The proposed text amendments would help create a quality urban environment in the Downtown Core area, contribute to a visually pleasing built environment by improving existing CSPLs, and contribute to variety and maximum choice for transportation in the Downtown Core area.

\* 11. The request furthers the Economic Development Goal of the Comprehensive Plan. The proposed text amendments would generally help achieve economic development balanced with the social and cultural goals of the Downtown Core area. Lighting, landscaping, paving and buffering improvements could make the lots, streets and sidewalks more attractive and safe, contribute to the value of the district, encourage parking lot usage, reinforce the "park once, pedestrian first" concept and encourage people to spend more time and money.

\* 12. The request furthers the Developed Landscape Goal of the Comprehensive Plan. The quality of the natural and developed landscape would generally improve due to the proposed text amendments. The requirements for lighting, landscaping, paving and buffering would improve the existing CSPLs and their surroundings.

13. The request furthers the following Downtown 2010 Sector Development Plan (DTSDP) Policy and Implementation Action 1 regarding Transportation & Parking:

- A. Policy: Improved lighting, landscaping, paving and buffering for existing commercial surface parking lots (CSPLs) would support the "Park Once and Pedestrian First" concept and improve the

parking and walking experience in the Downtown Core area. The continued prohibition on new CSPLs would contribute to the “park once” idea because new CSPLs would not be available.

- B. Implementation Action 1: The proposed requirements would result in improved lighting, landscaping, paving and buffering that would modify the sidewalk areas near existing CSPLs and improve the experience of motorists, bicyclists and pedestrians.

14. The request furthers the following Downtown 2010 Sector Development Plan (DTSDP) Policy and Implementation Action regarding Land Use & Design:

- A. Land Use & Design Policy: Improvements to lighting, landscaping, paving and buffering of CSPLs would support pedestrian activity in Downtown by enhancing the pedestrian experience and promoting pedestrianism, which is an essential component of an “urban place”.
- B. Pedestrian Orientation and Parking, Standard 5- Surface Parking: The proposed text amendments would continue to prohibit new CSPLs, which would support the intent for streets and sidewalks to be lined with buildings rather than parking lots.

15. As originally drafted, the proposed text amendments warrant clarification in places to create consistency with the Zoning Code, improve enforceability and remedy minor errors. The proposed conditions of approval are intended to create such clarification.

\* 16. The Office of Neighborhood Coordination (ONC) notified the affected neighborhoods by mail. Notification was also mailed to owners of CSPLs and property owners within 200 feet of the CSPLs. Notification was also placed in the Neighborhood News and on the Planning Department’s website. Staff has received one letter of support and one letter of opposition as of this writing, from the Downtown Action Team (DAT) and a CSPL owner, respectively. Some affected property owners have inquired by phone.

### **RECOMMENDATION**

**That a recommendation of APPROVAL of Text Amendments to the Downtown 2010 Sector Development Plan & an associated Amendment to Zoning Code §14-16-1-5(B), Definitions, be forwarded to the City Council based on the preceding Findings and subject to the following Conditions of Recommendation.**



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**RECOMMENDED CONDITIONS OF RECOMMENDATION- 09EPC-40070, March 11, 2010-  
Downtown 2010 Sector Development Plan Text Amendments & an associated Amendment to Zoning  
Code §14-16-1-5(B), Definitions.**

Notes: \* Asterisk and grey highlighting indicate differences from the original February Staff report.  
The only proposed condition that applies to both R-09-5 and O-10-1 is 1.D.

\* 1. Definitions:

- A. Page 1, beginning on Line 4 Insert reference to the Definitions section of the Zoning Code, to be amended:

[+; AMENDING SECTION 14-16-1-5(B) ROA 1994 OF THE ZONING CODE TO INCLUDE THE DEFINITION OF COMMERCIAL SURFACE PARKING LOT+]

- A. Page 1, Line 8:

WHEREAS, the City Council has the authority both to adopt and to amend a sector [+development+] plan; and [+to amend the Zoning Code.+]

- B. Page 3, Lines 10-11:

[+UNLESS OTHERWISE DEFINED IN THE PLAN, THE DEFINITIONS SECTION OF THE ZONING CODE, 14-16-1-5(B), SHALL APPLY+]

- C. Page 3, Lines 13-16 (applies to both R-09-5 and O-10-1):

A “commercial surface parking lot” [means] [+is+] an area of land used [for the provision of] [+to provide+] parking [+for motor vehicles, as a commercial enterprise, +] for a fee [+to the general public. Such a parking lot is not associated with any other use.+] The term does not include a commercial parking garage which is a building [whose primary use is] [+primarily used for+] the provision of parking for a fee.

\* 2. Prohibition & Compliance:

- A. Page 3, Line 17:

2. [+New+] Commercial Surface Parking Lots are not allowed within the area covered by the Downtown 2010 Sector Development Plan.

- B. Page 3, Lines 19-23:

3. Commercial Surface Parking Lots that legally existed prior to the adoption of [this amendment to] the Downtown 2010 Sector Development Plan [+in May 2000+] shall [+continue to+] be [legal] non-conforming uses and must meet the landscaping, lighting, buffering and paving requirements as defined herein and within the time frames herein specified.

C. Page 3, new Lines 24-26:

[+4. Such Commercial Surface Parking Lots shall also comply with certain requirements of the O-1 zone regarding parking lot paving [(A)(12)(a)], barriers [(A)(12)(b)], and ingress and egress [(A)(12)(e)].]

3. Effective Date:

Page 6, new Lines 9-10:

[+SECTION 3. This ordinance shall take effect five days after publication by title and general summary+].

\* 4. Lighting:

A. Page 3, beginning on Line 29:

2. Adequate lighting requires that ~~[the parking facilities]~~ [+commercial surface parking lots+] shall be illuminated with a minimum maintained one half (0.5) foot-candle of light at ground level during the hours of darkness, maximum to minimum uniformity ratio lighting in parking areas shall be 15:1. (This means that when the minimum is at 0.5 foot-candle of light, the maximum foot-candle level shall not be higher than 7.5 foot-candles.)

[+3.+] Landscaping shall not be planted so as to obscure required light levels. *{see also proposed condition #9A}*

B. Page 4, new Lines 8-9:

[+6. All commercial surface parking lots shall comply with the illumination requirements in Zoning Code 14-16-3-9, Area Lighting Regulations+].

C. Page 4, Lines 8-10:

~~[3.]~~ [+7.+] Adequate lighting at commercial surface parking lots shall be provided within three years of the effective date of this amendment to the Downtown 2010 Sector Development Plan. [+There shall be no extension of the three year compliance timeframe.+]

\* 5. Landscaping:

A. Page 4, Lines 20-24:

2. At least 15% of the ground area of ~~[legal]~~ non-conforming commercial surface parking lots (including driveways) shall be devoted to landscaping. Along the street right-of-way a minimum landscaped strip of six feet shall be maintained between parking areas and the street right-of-way line [+, with the following exception: if street trees are used to meet coverage requirements, the landscaping strip may be reduced to 3 feet.+]

B. Page 4, Line 26-29:

[+4+] To minimize water consumption, the use of vegetative ground cover other than turf grass is ~~[encouraged]~~ [+required+]. Landscaping that dies [+, including street trees used to meet the coverage requirement, is the responsibility of the owner and+] shall be replaced within 60 days ~~[of notification to the owner]~~.

C. Page 4, beginning on Line 30:

~~[3.]~~ [+5+] Compliance with the requirement for 15% landscaping coverage may be met, ~~[in whole or]~~ in part, by providing street trees adjoining a commercial surface parking lot. ~~[if such trees are]~~ [+The street trees must be placed+] in locations ~~[and are tree species]~~ consistent with the ~~[provisions]~~ [+standards+] of the Downtown 2010 Sector Development Plan. [+The tree species must be selected from the Approved List of Downtown Trees included in the Plan and must also comply with the Street Tree Ordinance.+]

D. Page 5, beginning on Line 1:

[+6.+] The ground area occupied by a street tree for purposes of coverage percentage shall be calculated by determining the mature spread of the street trees. Credit shall be given for ground area coverage of a street tree even if some or all of the mature spread of the street tree is not above the commercial surface parking lot. Street trees adjacent to a commercial surface parking lot ~~[may]~~ [+shall+] be planted in the ground ~~[or in a moveable planter]~~ [+in an area that is a minimum size of 36 square feet.+]

E. Page 5, new lines 8-10:

[+ 7. The following trees shall be added to the Approved List of Downtown Trees: Redbud, Crape Myrtle (cultivars over 15 ft. tall), Ash ‘Urbanite’, Malus ‘Thunderchild’, Malus ‘Prairiefire’, Box elder ‘Sensation’, Lacebark Elm.+]

F. Page 5, Lines 8-11:

~~[4.]~~ [+8.+] Compliance with the landscaping requirements for ~~[legal]~~ nonconforming commercial surface parking lots shall be provided within three years of the effective date of this amendment to the Downtown 2010 Sector Development Plan. [+There shall be no extension of the three year compliance timeframe.+]

\* 6. Paving:

A. Page 5, Lines 14-16:

1. ~~[Legal]~~ Non-conforming commercial surface parking lots shall be paved [+with a minimum of+] two inches of asphalt or concrete or a surface of equal or superior performance characteristics [+such as crusher fines+]. [+For drive pads the minimum thickness shall be 6 inches.+]

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B. Page 5, Lines 18-21:

3. Compliance with the paving requirements for ~~legal~~ nonconforming commercial surface parking lots shall be provided within three years of the effective date of this amendment to the Downtown 2010 Sector Development Plan. [+There shall be no extension of the three year compliance timeframe.+]

\* 7. Buffering:

A. Page 5, Lines 24-29:

1. Where a ~~legal~~ non-conforming commercial surface parking lot is adjacent to a residential zone there shall be a solid fence or wall at a minimum height of 48 inches high to buffer the residentially zoned property from the parking lot. This buffering shall be in addition to any required landscaping. [+Chain link fencing with slats shall not constitute acceptable screening.+]

B. Page 5, Lines 29-32:

2. Compliance with the buffering requirements for ~~legal~~ nonconforming commercial surface parking lots shall be provided within one year of the effective date of this amendment to the Downtown 2010 Sector Development Plan. [+There shall be no extension of the one year compliance timeframe.+]

8. Complete Citations:

A. Page 2, beginning on Line 9:

WHEREAS, at page 55 of the Downtown 2010 Sector Development Plan it is provided that [+parking between a building and a side lot line+] ~~along a side lot line parking~~ must be screened from the street by a solid fence or wall at a minimum height of 48 inches ~~;~~ [+(4 feet), except on Central Avenue between 1<sup>st</sup> Street and 8<sup>th</sup> Street, where surface parking must be located behind buildings.+]

B. Page 2, beginning on Line 15:

WHEREAS, the City's Zoning Code provides at section 14-16-3-4(B) that:

- (1) A legally nonconforming use of land ~~[...]~~ [+, except a legally nonconforming mobile home, +] shall be made to conform within ~~[...]~~ [+ : +]
- (b) One year after the activity becomes nonconforming...;

C. Page 2, beginning on Line 21:

WHEREAS, the City's Zoning Code provides at section 14-16-3-4(E) that:

Nonconforming Landscaping. Premises which, when they were developed, were not required to be developed according to a landscaping plan approved by the city shall be made to conform to

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such a plan within two years of the time they were required to so conform [---:] [+due to amendment of the map or text of this Zoning Code.+]

\* 9. Renumbering (where not otherwise mentioned herein):

A. Page 4, beginning on Line 3:

[+3.+] Landscaping shall not be planted so as to obscure required light levels.

[+4.+] Parking lot lights shall be designed and arranged in such a manner so that light is reflected away from adjoining residential properties and streets.

[+5.+] All light poles, standards and fixtures shall not exceed a height of twenty (20') feet above grade level.

*{for new #6 see recommended Condition 4B}*

*{for new #7 see recommended Condition 4C}*

B. Page 4, beginning on Line 20:

2. At least 15% of the ground area of legal non-conforming commercial surface parking lots (including driveways) shall be devoted to landscaping. Along the street right-of-way a minimum landscaped strip of six feet shall be maintained between parking areas and the street right-of-way line.

[+3+] All required landscape areas shall be covered with live plants over at least 75% of the required landscape area. Coverage will be calculated from the mature spread of these live plants.

[+4+] To minimize water consumption, the use of vegetative ground cover other than turf grass is [encouraged] [+required+]. Landscaping that dies shall be replaced within 60 days [of notification to the owner].

*{see also recommended Condition 5A}*

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***Catalina Lehner, AICP***  
***Senior Planner***

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